

# CHAPTER 4

## BUSINESS REGULATIONS

### SECTION 10: WRECKER & VEHICLE STORAGE BUSINESS REGULATIONS

#### A. DEFINITIONS

- (1) **Entrance to Parking Facility** means any opening to a parking facility which is capable of being used by a vehicle to effect ingress into the lot without jumping curbs or other obstacles not intended for the passage of vehicles.
- (2) **Non-consent Tow** means a tow that is conducted without the permission of the owner or operator of the vehicle.
- (3) **Owner** means any person who holds the legal title to a motor vehicle; is a lien holder, or has the permission of the registered owner to possess. This does not include any person who has gained possession of a motor vehicle only as a result of a tow vehicle service performed.
- (4) **Parking Facility** means any public or private property used, in whole or in part, for restricted and/or paid parking of vehicles. "Parking facility" includes, but is not limited to, commercial parking lots, parking garages, and parking areas serving or adjacent to businesses, churches, schools, and apartment complexes. "Parking facility" also includes a restricted portion or portions of an otherwise unrestricted parking facility. It may also include government owned property leased to a private person such as a portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner.
- (5) **Parking Facility Owner** means an operator or owner, including any lessee, employee, or agent thereof, of a parking facility.
- (6) **Permit** means written authorization for specific vehicles, granted by the Chief of Police, to operate as a tow vehicle within the City. Permits are only required for vehicles performing Police Directed/Initiated or Non-Consent Tows.
- (7) **Permit Holder** means any person possessing a current valid permit to engage in the wrecker business in the City of College Station, Texas, including the tow company owner(s), driver, or other employee of a tow company.
- (8) **Person** means an individual, a corporation, a partnership, joint venture, or association.
- (9) **Police Directed Tow** means a tow that is initiated at the request of a police officer and may be without the vehicle owner/operator's permission, or it may be initiated through the police department's rotation list where the owner/operator has no preference to a wrecker company.
- (10) **Prepare To Tow** means a tow vehicle operator must take more than routine action in order to engage and tow a vehicle. Examples are unlocking the vehicle, changing a tire, disconnecting the drive shaft. It does not include tying the steering wheel, straightening the front wheels, attaching tow stop/turn lights on the towed vehicle, using go jacks to position the vehicle, or other ordinary actions that may be required to safely and/or legally tow the vehicle.

- (11) **Preservation** includes tarping a vehicle that has inoperative or broken windows or doors, obtaining the registered owner information (MVR), and inventorying personal property or removing personal property from the vehicle for security purposes.
- (12) **Private Lot Tow** means a tow that is conducted from a Parking Facility and without the consent of the owner or operator of that vehicle.
- (13) **Relocation** means a subsequent tow from one location to another. An example would be from a vehicle storage facility to a repair shop. It does not include the original tow from the disabled location to the VSF or from one location in a VSF to another in the VSF.
- (14) **Tow Vehicle** means any commercial motor vehicle used for the purpose of towing or removing vehicles.
- (15) **Tow Vehicle Certificate** means the document issued to a tow company by the Texas Department of Transportation/Motor Carrier Division. This certificate lists all wreckers licensed to operate for a business within the state and each has the prescribed minimum of liability insurance.
- (16) **Unauthorized Vehicle** means any vehicle parked, stored, or located in or on a parking facility without the consent of the parking facility owner.
- (17) **Vehicle** means every device in, upon, or by which any person or property is or may be transported or drawn upon any street, alley, public park, commons, or public highway and including motor vehicles, trucks, tractors, trailers, and semi-trailers, but excepting devices moved by human power or used exclusively upon stationary rails or tracks.
- (18) **Vehicle Storage Facility (VSF)** means a facility located within the City or used by a permitted Wrecker Company designed or used for the purpose of storing towed vehicles without the owner's/operator's permission, or through a police initiated/directed tow and for which a fee may be assessed. This includes wrecker or tow companies using their own facilities or that of another. Facilities that receive such vehicles must be a currently licensed VSF through the Texas Department of Transportation.
- (19) **Vehicle Storage Facility Certificate** means the certificate issued by the Texas Department of Transportation/Motor Carrier Division authorizing a business to store vehicles. A business that stores at least ten (10) non-consent towed vehicles per year must be licensed.
- (20) **Winching** means the required use of a mechanized cable system that is used to pull an object, such as would be used to pull a vehicle from a ditch or creek, or to upright an overturned vehicle.
- (21) **Wrecker Business** means the business of towing or removing vehicles upon the public streets for a fee regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade, or purchase vehicles.
- (22) **Wrecker Company** means an individual, corporation, partnership, or association engaged in the business of towing vehicles on a public highway for compensation or with the expectation of compensation for the towing, storage, or repair of vehicles. The term includes the owner, operator, employee, or agent of a towing company.
- (23) **Wrecker Rotation Lists** means lists prepared and maintained by the College Station Police Department of wrecker companies which have requested and qualified to appear thereon, and which maintain wreckers permitted by the Police Department of College Station.

B. PERMIT AND CERTIFICATES

(1) Unlawful to Operate without Permit

It shall be unlawful for any person to engage in the wrecker business and make non-consent tows or police directed tows in the City of College Station unless such person possesses a current, valid permit for that tow vehicle from the City of College Station. Wrecker Companies requesting to be placed on the Police Rotation List must have a permit for each tow vehicle. The permit shall be displayed in the vehicle where it can be read from the exterior of the vehicle. Permits will be issued only upon successful inspection of each vehicle for the prescribed equipment and standards as listed in the application, provided by the Chief of Police. The issuance of a permit is valid for one (1) year and will be issued following successful inspection of the vehicle for the purpose of ensuring minimum standards of safety and each truck is equipped sufficiently to provide adequate services that are required.

(2) Vehicle Certificates Required

It shall be unlawful to operate, in the wrecker business as a tow vehicle, any vehicle for which no Texas Department of Transportation tow vehicle certificate has been issued.

(3) Issuance or Renewal

Permits, unless suspended or revoked, shall be issued or renewed in July of each year. Permits may be issued for tow vehicles added to the wrecker business when licensed and successfully inspected. Permits shall not be prorated, nor transferable from one vehicle to another or from one company to another.

(4) Fee

The permit fee charged the wrecker company by the College Station Police Department shall be as set by resolution and shall be of an amount to cover the cost of inspection and maintaining records regarding the ability to safely and adequately operate each tow vehicle. This fee shall not exceed any state allowed maximum.

(5) Vehicle Storage Facility

Each wrecker company shall only be authorized to operate under permit provided that company utilizes a Texas Department of Transportation licensed vehicle storage facility within Brazos County.

(6) Police Inspection

Any wrecker company, tow vehicle, or vehicle storage facility operating as such within the City limits of College Station may be inspected by an officer of the police department at any time the wrecker is being operated on the public streets as a tow vehicle or when the vehicle storage facility is open for business. Such inspections may be conducted to ensure required permits, licenses, or equipment is present and operational. Further, the records of such businesses must be made available for inspection to assure compliance with fee restrictions of this ordinance and/or state regulations.

C. WRECKER COMPANY PERMIT APPLICATION

Each wrecker company that performs non-consent tows or that desires to be on the Police Rotation List shall have a permit for each tow vehicle operated.

(1) Required Information

Any applicant for a permit shall submit, on a form provided by the Chief of Police, a verified application containing or accompanied by the following:

- (a) The true trade name, address, and telephone number of the wrecker company.
- (b) The true owner(s) of the wrecker company, if the wrecker company is other than a corporation.
- (c) A detailed description of each wrecker proposed to be operated, including the Texas Tow Truck license plate number. The company name and phone number must be permanently displayed on both sides of the tow vehicle in digits at least four inches (4") in height.
- (d) A certificate from the County Tax Assessor Collector that states all taxes on all properties, real and personal, to be used in connection with the applicant's wrecker company have been paid. This is to include current license plate receipts.
- (e) A verified statement that there are no outstanding final civil or criminal judgments against the wrecker company or the owners thereof in connection with the operation of the wrecker company.
- (f) The original certificate that lists the particular wrecker as having public liability and property damage insurance issued to a company authorized to transact business in the State of Texas and such policy shall contain limits as specified by the Texas Department of Transportation. This certificate will be returned to the owner upon making a photocopy for police records.
- (g) The name of any wrecker company which the applicant has previously been associated, merged, or become a successor in interest. Should the predecessor have outstanding final civil or criminal judgments or be otherwise ineligible for a permit or certificate, the successor company shall likewise be ineligible until the impediment is removed.
- (h) A photocopy of the Vehicle Storage Facility license issued by the Texas Department of Transportation, which must list the physical address and phone number of the facility to be used, and be located within Brazos County. Each VSF must be publicly listed with the local telephone company.

(2) Rejections and Revocations

In the event the Chief of Police determines any of the information contained in the application is inaccurate or not current, he shall reject such application, or if a certificate or permit has been issued, it shall be suspended until the information has been made current.

(3) Application Form

The permit application that any applicant shall submit will be provided by the College Station Police Department.

D. INSPECTION OF VEHICLES

Every tow vehicle to be used by the applicant in the wrecker business shall be inspected by the Chief of Police or his delegate prior to the issuance of a permit to ascertain if it has the following:

- (1) Current safety inspection certificate.
- (2) Title or registration documents.
- (3) Current State tow truck license number.
- (4) One (1) fire extinguisher, type ABC dry chemical, at least 10 lbs. or equivalent.

- (5) Three (3) portable red emergency reflectors or reflective orange safety cones.
- (6) Light set sufficient to provide rear brake/turn lights and tail lights for the towed load (load lights).
- (7) Broom and scoop.
- (8) Approved emergency overhead flashing beacons.
- (9) Absorbent materials and container for the purpose of removing vehicle fluid spills.
- (10) The wrecker company name and telephone number is permanently affixed to each side of the tow vehicle with digits at least four inches (4") in height.

It shall be unlawful for any permitted vehicle to operate at any time without the required equipment stipulated by state law or this ordinance.

E. WRECKER ROTATION LISTS

(1) Qualifications

The City of College Station Police Department shall establish and maintain a wrecker rotation list and each permitted company is qualified to be on such list if it maintains a twenty-four (24) hour wrecker service and has one (1) telephone number which is answered twenty-four (24) hours a day, seven (7) days a week. Only those wreckers permitted to operate in the City shall be used and only those wreckers for that specific company are authorized to respond.

(2) Forfeiture of Calls

Failure of any permit holder to deliver that company's wrecker to the scene where it was requested within thirty (30) minutes of being called will result in the forfeiture of that call and shall be considered a violation of this ordinance. Should a company not desire to be on rotation call for a period of time, the public safety dispatch shall be notified that the company be removed from rotation calls for a specific time period. It shall be the company's responsibility to notify dispatch when the company wishes to return to the rotation call list.

(3) Unneeded Calls

If a wrecker is called to respond to a scene by a police officer and subsequently is not needed, the wrecker company will be replaced as "next in line" on the rotation list. A tow vehicle responding and merely performing some minor service that enables the vehicle to be driven, and for which a small or no fee is charged, will permit the wrecker company to be placed back at the top of the rotation list. The maximum fee for this "Drop Fee" shall be set by resolution of the City Council.

(4) Fee for Being on Rotation List

In addition to the fee charged to obtain a permit for each wrecker, a wrecker company desiring to be placed upon the rotation list shall pay an additional fee, set by resolution, to cover the cost of maintaining the list. This fee shall be collected annually at the same time the permit fees are collected. This fee shall not be prorated or refundable and will be assessed on a per company basis.

F. FEES TO BE CHARGED BY PERMIT HOLDERS OR STORAGE FACILITIES

The maximum fees charged by wrecker companies performing tow services for vehicles weighing up to and including 10,000 GVW, and vehicle storage facilities shall be in an amount, set by council resolution or state law, that is sufficient to compensate for their

services. Violations of these fees may be cause for suspension or revocation of the permit and criminal or civil action against the offender.

G. DRIVING WRECKERS TO SCENE OF COLLISION PROHIBITED

No person shall drive, or cause to be driven, a wrecker to or near the scene of a collision on a street in this City unless such company has been called to the scene by the College Station Police Department or by a vehicle owner/operator involved in the collision.

H. SOLICITING WRECKER BUSINESS ON CITY STREET PROHIBITED

No permit holder or his employees shall solicit in any manner, directly or indirectly, a person owning/operating any vehicle which is wrecked or involved in a traffic accident on a public street. This prohibition applies regardless of whether the solicitation is for the purpose of soliciting the business of towing, repairing, selling, or purchasing such vehicle.

I. POUND HAULS

Any police officer investigating an accident or offense within the City may order the impoundment of any motor vehicle involved therein when, in the judgment of such officer, criminal prosecution will be involved as a result of such accident, or when it is necessary to impound such vehicle to secure evidence, or when the owner or occupant of the vehicle is unable or fails to have such vehicle removed. The fees to be charged for pound hauls will not exceed the maximums allowed by this ordinance or state law.

J. DUTIES OF PERMIT HOLDERS

It shall be the obligation of all permit holders under this section to operate the wrecker business in a safe manner and is not limited to the following:

(1) Taking Direction from Investigating Officer

Upon arrival at the scene of a collision within the incorporated limits of the City of College Station, tow vehicle operators shall take directions on when to engage or tow from the police officer investigating the collision.

(2) Removing Debris of Collision

Tow vehicle operators that engage and tows any vehicle from the scene of a collision within the incorporated limits of the City of College Station shall remove all debris of the collision from the public street. This duty specifically includes the removal of vehicle parts, glass, and fluids. Such debris shall be disposed of in a lawful manner which will keep it out of the gutters, storm sewers, streams, public rights-of-way, and property not belonging to the wrecker company.

(3) Disengaging

A tow vehicle that removes a vehicle from the original location shall not disengage from the vehicle until the vehicle has been deposited with the appropriate VSF. Exceptions to this would be to release the vehicle to its owner/operator or the owner/operator specifies the location of disengagement. This is specifically enacted to prohibit tow vehicles from engaging an unauthorized vehicle in a parking facility and moving it to a close location, then returning for another unauthorized vehicle, ultimately towing all the relocated vehicles to a VSF.

(4) Drops

A tow vehicle that has connected a vehicle for towing shall release the vehicle to its owner or operator upon payment of the "drop fee". An exception to this is where the vehicle is being taken into custody by a police officer.

K. ADMINISTRATIVE PENALTIES FOR VIOLATIONS

In addition to the criminal penalties imposed for violations of state law or this ordinance, any permit holder who violates this ordinance or state regulations may be subject to sanctions by the Chief of Police, depending on the nature of infraction, number of infractions, and other circumstances. The range of sanctions shall be from written notification of violation with warning up to and including revocation of all permits to perform non-consent and police initiated tows.

L. REMOVAL BY PARKING FACILITY OWNER

(1) Without Consent of Owner

A vehicle parking facility owner or operator, without the consent of the owner or operator of an unauthorized vehicle, may cause such vehicle to be removed and stored at the expense of the owner or operator of the vehicle, if any of the following occurs:

- (a) State approved sign(s) posted in accordance with the Texas Transportation Code Chapter 684, specifying those persons who may park in the parking facility and prohibiting all others, are placed so that they are legible from all entrances to the parking facility; such sign shall display the current phone number of the vehicle storage facility where the unauthorized vehicle is located.
- (b) The owner or operator of the unauthorized vehicle has actually received notice from the parking facility owner that the vehicle will be towed away if it is not removed.
- (c) The unauthorized vehicle is obstructing an entrance, exit, fire lane, or aisle of the parking facility.

(2) Under Direction of Peace Officer

Otherwise, a parking facility owner may not have an unauthorized vehicle removed except under the direction of a peace officer, the owner, or operator of such vehicle.

M. REPORT OF TOWING OF UNAUTHORIZED VEHICLE TO POLICE DISPATCHER

Regardless of physical location, the vehicle storage facility that receives a vehicle from a wrecker that removed the vehicle from private or public property within College Station and on a non-consent basis, pursuant to Chapter 684 of the Texas Transportation Code, shall notify the City of College Station Police Department Communications office within one (1) hour of receiving the vehicle. The information to be provided in such notification shall include:

- (1) The general description of the vehicle towed, including the state and number of the license plate, and the vehicle identification number (if available);
- (2) The wrecker company name that towed the vehicle;
- (3) The location from which the vehicle was towed and reason;
- (4) The date and time the vehicle was removed from the location;
- (5) The date and time the vehicle was accepted at the vehicle storage facility, and
- (6) The street address and phone number of the VSF where the vehicle is located.

Such reports shall be made by telephone or in person. All Vehicle Storage Facilities must hold a license to operate by the Texas Department of Transportation. A vehicle storage facility must release vehicles during the time the vehicle storage facility accepts vehicles. If the VSF accepts vehicles on a twenty-four (24) hour a day basis, it shall release vehicles on the same basis, with one (1) hour notice.

N. PENALTY FOR VIOLATION

Any person who violates any provision of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine pursuant to the General Penalty set out in Chapter 1, Section 5, of this Code of Ordinances

(Ordinance No. 2224 dated November 20, 1996.)